

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
<b>RAS Citron, LLC</b> 130 Clinton Road, Suite 202 Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys For Secured Creditor  Harold Kaplan, Esq. (HK-0226)	CASE NO.: 18-28974-MBK  CHAPTER 13  <b>Objection to Confirmation of Debtor's Chapter 13 Plan</b>
<b>In Re:</b> <b>John Kelly,</b> <b>Debtor.</b> <b>Peggy A. Kelly,</b> <b>Joint Debtor</b>	

**OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN**

NATIONSTAR MORTGAGE LLC ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (DE # 13), and states as follows:

1. Debtors, John Kelly, ("Debtor"), and Peggy A. Kelly ("Joint Debtor") filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on September 24, 2018.
2. Secured Creditor holds a security interest in the Debtor's real property located at 519 ALFRED ROAD, SOUTH TOMS RIVER, NJ 08757, by virtue of a Mortgage recorded on February 09, 2007 in Book 13518, at Page 1648 of the Public Records of Ocean County, NJ. Said Mortgage secures a Note in the amount of \$293,550.00.
3. The Debtor filed a chapter 13 plan on October 9, 2018.
4. The Plan includes payments toward the Note and Mortgage with Secured Creditor, however the figures used by the Debtor are inaccurate. It is anticipated that Secured Creditor's claim will show the pre-petition arrearage due Secured Creditor is \$63,174.12, whereas the Plan proposes to pay only \$49,450.00. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any plan which proposes to pay it anything less than \$63,174.12 as the pre-petition arrearage over the life of the plan.

5. Debtor's Plan evidences an intent to seek mortgage modification with Secured Creditor. Debtor's Plan proposes monthly adequate protection payments to Secured Creditor in the amount of \$1,600.00. Based on the express terms of the Debtor's Plan, the proposed payments are calculated at 60% of the regular monthly principal and interest payment, plus 100% of any applicable escrowed amounts. However, an accurate calculation based on 60% of the regular monthly principal and interest payment, plus 100% of any applicable escrowed amounts, results in an adequate protection payment of \$1,648.29. Therefore, Secured Creditor objects to the proposed monthly adequate protection payments and any other payment below \$1,648.29, during the pendency of loss mitigation.
6. Debtor is obligated to fund a Plan which is feasible to cure the arrears due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that any loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).

**WHEREFORE**, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

RAS Citron, LLC  
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Fairfield, NJ 07004  
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By: /s/Harold Kaplan  
Harold Kaplan, Esquire  
NJ Bar Number HK-0226  
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**CERTIFICATION OF SERVICE**

1. I, Harold Kaplan, represent NATIONSTAR MORTGAGE LLC in this matter.
2. On 11/1/2018, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

11/1/2018

RAS Citron, LLC  
Attorney for Secured Creditor  
130 Clinton Road, Suite 202  
Fairfield, NJ 07004  
Telephone Number 973-575-0707

By: /s/Harold Kaplan  
Harold Kaplan, Esquire  
NJ Bar Number HK-0226  
Email: hkaplan@rasnj.com

<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Daniel E. Straffi Straffi & Straffi, LLC 670 Commons Way Toms River, NJ 08755	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other  (as authorized by the court*)
John Kelly 519 Alfred Rd Toms River, NJ 08757-5550	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other  (as authorized by the court*)
Peggy A. Kelly 519 Alfred Rd Toms River, NJ 08757-5550	Joint Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other  (as authorized by the court*)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other  (as authorized by the court*)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other  (as authorized by the court*)